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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/602,923	06/23/2000	Bernard Duroux	BRI-00039	1036
7590 12/15/2006			EXAMINER	
Warn IP Law Office			SHAHER, RICKY D	
P O Box 70098			ART UNIT	
Rochester Hills, MI 48307			PAPER NUMBER	
			2872	

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/602,923

Applicant(s)

DUROUX ET AL.

Examiner

Ricky D. Shafer

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-23 is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule.17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/22/2006 has been entered.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1 and 3-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification, as originally filed, does not provide support for a housing pivotally mounted on a base for angular movement about a first pivot axis and a second pivot axis, as recited in claim 1.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamiya et al ('349) in view of Shibuya et al ('838) or Schenk et al ('753).

Tamiya et al discloses a rearview mirror assembly comprising a base (12) for mounting on a vehicle body, a housing (H) pivotally mounted on said base for angular movement about a first axis (see figure 1), a reflective member (25) pivotally mounted in said housing for angular movement about a second pivot axis (see column 4, lines 56-63 and figure 4), an electric motor (M) contained in said housing, said electric motor having an output shaft (44) selectively operable to cause the angular movement of said housing about said first pivot axis at at least a first discrete speed and a controller (C) adapted to control the electric motor to selectively drive the housing about the first pivot axis at said first speed from a deployed position to a parked position or vice-versa and a sensor (Se) for sensing the status of the electric motor, note figures 1, 4, 9, 31, and 42 along with the associated description thereof, except for explicitly stating that the controller is adapted to control the electric motor in such a manner that the motor is capable of operating at a first discrete speed and at a second discrete speed.

Shibuya et al and Schenk et al each teach it is known to selectively control the rotational speed of an electric motor of an exterior rear view mirror assembly, (i.e., swing/folding speed of a side view mirror housing) in the same field of endeavor for the purpose of avoiding an impact or collision with an object or body which may damage the exterior rear view mirror assembly.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the controller of Shibuya et al or Schenk et al to include a controllable swing speed adjustment in order to avoid impact or collision with an object or body which may damage the exterior rear view assembly.

As to the limitations that the mirror assembly includes a counter, it is well known to use counters in association with an electric motor in the same field of endeavor for the purpose of sensing and controlling the positional orientation of a mirror. Note, by example only, the cited prior art of record.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sensor and/or motor of Shibuya et al or Schenk et al to include a counter in order to sense and control the positional orientation of the reflective member (i.e., mirror housing) so as to prevent overloading and damage to said motor.

As to the limitations of claim 19, it is well known to use reflective prism members in the same field of endeavor for the purpose of reducing glare.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify/substitute the reflective member of Shibuya et al or Schenk et al to include a reflective prism member, as is commonly used and employed in the art, in order to reduce glare.

6. Claims 20-23 are allowed.

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "50" has been used to designate both a spigot and a stud. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320.


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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RDS

December 11, 2006


RICKY D. SHAFER
PATENT EXAMINER
ART UNIT 2872